

U.S.S.N. 09/621,092
Filed: July 21, 2000
RESPONSE TO RESTRICTION REQUIREMENT

Remarks

Restriction requirement

Claims 1-40 were restricted into three groups of claims. Group I claims are claims 1-27, 39, and 40 drawn to a dry powder inhaler. Group II claims include claims 28-36, drawn to a capsule. Group III claims include claims 37 and 38, drawn to a method of making a capsule. The applicants elect group II claims without traverse.

Election of species

The Examiner identified seven distinct species: species 1 defined in claims 28-30, species 2 defined in claims 31-32, species 3 defined in claims 33-34, species 4 defined in claims 35-36, species 6 defined in claim 37 and species 7 defined in claim 38. The Examiner apparently mis-identified several of the species. Claim 28 defines a generic capsule. Claims 29 and 30 are drawn to two species of the capsule of claim 28. Similarly, claim 31 defines a generic capsule. Claim 32 is drawn to a species of the generic capsule of claim 31. Claims 31 and 32 have been cancelled. Claim 33 is drawn to a generic capsule defined therein. Claim 34 is drawn to a species of the generic capsule of claim 33. Claim 35 is drawn to a generic capsule defined therein. Claim 36 is drawn to a species of the generic capsule of claim 35.

If the applicants are correct in understanding the election of species requirement imposed by the Examiner, the applicants elect for examination the species of claim 29 for the generic capsule of claim 28, the species of claim 32 for the generic capsule of claim 31, the species of claim 34 for the generic capsule of claim 33, the species of claim 36 for the generic capsule of claim 35.

However, it is believed this election of species requirement has been mooted by

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the addition of new claims from which the old claims depend.

If, however, the Examiner maintains the original requirement of election of species, the applicants elect for examination species 1 for the Group II claims.

Examination of all claims 28-30, 33-36, and 41-45 on the merits is earnestly solicited.

Respectfully submitted,



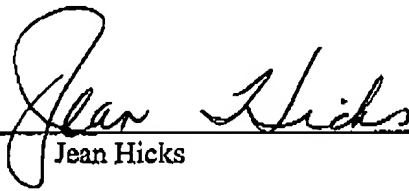
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper, along with any paper referred to as being attached or enclosed is being deposited with the United States Postal Service on the date, shown below with sufficient postage as first-class mail, to the U.S. Patent and Trademark Office, Washington, DC 20231.



Jean Hicks

Date: November 4, 2002

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APPENDIX: Marked Up Claims as pending upon entry of amendment

Please cancel claims 1-27, 31, 32 and 37-40.

28. (amended) [A] The capsule of claim 41 [for holding a medicament]
comprising a first tube and a second tube, wherein:

(a) a first tube having a long axis, having an inner and an outer surface radial to the long axis, wherein the tube is open at one end perpendicular to the long axis and closed at one end perpendicular to the long axis; and wherein the first tube has at least one protrusion on its outer surface; and

(b) a second tube having a long axis, having an inner and an outer surface radial to the long axis, wherein the tube is open at one end perpendicular to the long axis and closed at one end perpendicular to the long axis and wherein the second tube has at least one protrusion on its inner surface; and wherein the outer circumference of the first tube is approximately equal to the inner circumference of the second tube, such that the open end of the first tube can slide snugly into the open end of the second tube; and wherein a protrusion on the outer surface of the first tube may slide past a protrusion on the inner surface of the second tube, locking the tubes together;

and wherein the first tube and the second tube each have one or more secondary holes other than the openings at the end of each tube, wherein at least one secondary hole in the first tube may be made coincident with at least one secondary hole in the second tube when the first tube is slid onto the second tube in the unlocked position by rotation of the first and second tubes about their long axes, and

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wherein when the first tube is locked onto the second tube at least two secondary holes in the first tube may be made coincident with at least two secondary holes in the second tube by rotation of the first and second tubes about their long axes.

29. The capsule of claim 28 wherein the first and second tubes further comprise keying surfaces at the closed ends of the tubes.

30. (amended) The capsule of claim [28] 41 further including medicament selected from the group consisting of liquid, powder, and gaseous medicaments.

33. (amended) The [A medicament] capsule [for an inhaler] of claim 41 wherein the [medicament] capsule comprises apertures in the capsule to admit air flow and wherein structures in the interior surface of the capsule create cyclonic air flow.

34. The capsule of claim 33 wherein the structures are cone-shaped.

35. (amended) [A medicament] The capsule of claim 41 for a dry particle inhaler having a hole to admit air flow to release medicament into the airstream of the dry particle inhaler wherein the vertical slot ratio of the hole is between 1:1 and 3:1.

36. The medicament capsule of claim 35, wherein the vertical slot ratio is 2:1.

Please add new claims 41-45.

41. A capsule to contain drug for use in an inhaler comprising a keying surface that orients the capsule within the inhaler or identifies the drug to be placed in the capsule.

42. The capsule of claim 41 wherein the keying surface is found on a closed end of the capsule.

43. The capsule of claim 41 wherein the keying surface orients the capsule within the inhaler.

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44. The capsule of claim 41 wherein the keying surface identifies the drug to be placed in the capsule.

45. The capsule of claim 41 comprising a keying surface on one end which orients the capsule within the inhaler and a keying surface on the other end which identifies the drug to be placed in the capsule.

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APPENDIX: Clean copy of claims as pending upon entry of amendment

28. (amended) The capsule of claim 41 comprising a first tube and a second tube, wherein:

(a) a first tube having a long axis, having an inner and an outer surface radial to the long axis, wherein the tube is open at one end perpendicular to the long axis and closed at one end perpendicular to the long axis; and wherein the first tube has at least one protrusion on its outer surface; and

(b) a second tube having a long axis, having an inner and an outer surface radial to the long axis, wherein the tube is open at one end perpendicular to the long axis and closed at one end perpendicular to the long axis and wherein the second tube has at least one protrusion on its inner surface; and wherein the outer circumference of the first tube is approximately equal to the inner circumference of the second tube, such that the open end of the first tube can slide snugly into the open end of the second tube; and wherein a protrusion on the outer surface of the first tube may slide past a protrusion on the inner surface of the second tube, locking the tubes together;

and wherein the first tube and the second tube each have one or more secondary holes other than the openings at the end of each tube, wherein at least one secondary hole in the first tube may be made coincident with at least one secondary hole in the second tube when the first tube is slid onto the second tube in the unlocked position by rotation of the first and second tubes about their long axes, and

wherein when the first tube is locked onto the second tube at least two secondary holes in the first tube may be made coincident with at least two secondary holes in the second tube by rotation of the first and second tubes about their long axes.

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29. The capsule of claim 28 wherein the first and second tubes further comprise keying surfaces at the closed ends of the tubes.

a² 30. (amended) The capsule of claim 41 further including medicament selected from the group consisting of liquid, powder, and gaseous medicaments.

a³ N 33. (amended) The capsule of claim 41 wherein the capsule comprises apertures in the capsule to admit air flow and wherein structures in the interior surface of the capsule create cyclonic air flow.

N 34. The capsule of claim 33 wherein the structures are cone-shaped.

a⁴ N 35. (amended) The capsule of claim 41 for a dry particle inhaler having a hole to admit air flow to release medicament into the airstream of the dry particle inhaler wherein the vertical slot ratio of the hole is between 1:1 and 3:1.

N 36. The medicament capsule of claim 35, wherein the vertical slot ratio is 2:1.

(41.) A capsule to contain drug for use in an inhaler comprising a keying surface that orients the capsule within the inhaler or identifies the drug to be placed in the capsule. 112 mod c/s

42. The capsule of claim 41 wherein the keying surface is found on a closed end of the capsule.

43. The capsule of claim 41 wherein the keying surface orients the capsule within the inhaler.

44. The capsule of claim 41 wherein the keying surface identifies the drug to be placed in the capsule.

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45. The capsule of claim 41 comprising a keying surface on one end which orients the capsule within the inhaler and a keying surface on the other end which identifies the drug to be placed in the capsule.

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